



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Vantage Foods, Inc.

File: B-224179

Date: September 25, 1986

DIGEST

Protest by small business against finding of nonresponsibility and possible affirmative determination of responsibility of another offeror is dismissed. GAO will not generally review such determinations of nonresponsibility since to do so would amount to substitution of our judgment for that of Small Business Administration, which is specifically authorized by statute to determine small business responsibility. Also, absent certain exceptions not applicable here, GAO will not review affirmative determinations of responsibility.

DECISION

Vantage Foods, Inc., protests that it was unfairly found nonresponsible by the Defense Logistics Agency (DLA) under request for proposals (RFP) No. DLA 13H-86-R-8053, and asserts that DLA may choose another offeror that has been delinquent in the past and has no demonstrated capability to perform the contract. We dismiss the protest.

We have been informally advised that Vantage is a small business. Under 15 U.S.C. § 637(b)(7) (1982), the Small Business Administration (SBA) has conclusive authority to determine the responsibility of a small business by issuing or denying a certificate of competency (COC). When a small business has been found nonresponsible, it is incumbent on the firm to apply to the SBA for a COC in order to avail itself of the protection afforded by the COC procedures against unreasonable determinations by the contracting officer. We will not generally review a finding of nonresponsibility applied to a small business since to do so in effect would substitute our judgment for that of the SBA, the agency specifically authorized by statute to review such matters. M.G. Technology Corp., B-222438, May 29, 1986, 86-1 C.P.D. ¶ 503. Consequently, we will not consider Vantage's first contention.

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Vantage's second assertion is a challenge to DLA's possible affirmative determination of the responsibility of another offeror. Our Office, however, will not consider protests against affirmative determinations of responsibility absent a showing of possible fraud or bad faith or misapplication of definitive responsibility criteria. 4 C.F.R. § 21.3(f)(5) (1986). Neither of these exceptions applies here.

The protest is dismissed.

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